IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 14701 of 1996

Between:
The Senior Manager APSRTC
Khammam Region Khammam,
Khammam Dist

..... PETITIONER

AND

1 The Deputy Transport Commissioner Nayeemnagar, Hanamkonda Warangal Dist
2 The Regional Transport Officer, Khammam

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the impugned demand notice proceedings No.9605/A2/87, Dt.25/8/1989 and quash the same by way of a writ of certiorari or any other appropriate writ or order or orders.

For the Petitioner:MR.K.HARINATH, Standing Counsel for APSRTC.

For the Respondent No.: The SPL Government Pleader FOR TAXES

The Court Made the Following :

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ORDER : (Per Sri Bilal Nazki, J).

Controversy in this Writ Petition is very short. The Writ petitioners A.P.S.R.T.C. was granted a permit to run a bus from Kothagudem to Bodur, which was considered to be a fair weather route. Permit entitling a bus to ply on a fair weather route carries less tax than a bus plied on all weather route. The assessing authority came to the conclusion that the route was not a fair weather route, but was a all weather route and created a demand of Rs.1,08,290/- for the period from 01.01.1980 to 31.03.1987. The order itself was passed on 25.08.1989. So the tax demanded is for a period even nine years prior to the demand.

We have gone through the order. We have also perused the counter affidavit. In our opinion, there was no material before the Regional Transport Officer, Khammam to come to the conclusion that the route in question was all weather route even on 01.01.1980. In the absence of any such material before the authorities, the demand created for a period prior to 25.08.1989 is absolutely arbitrary and illegal. However, there is evidence and the learned counsel for respondents has also conceded that from 25.08.1989, the route has become all weather route. Therefore, while quashing the notice of demand, we direct the petitioners to pay the tax on the busis that the route is all weather route from 25.08.1989. The respondents also shall have liberty to assess as to whether the route had become all weather route even before 21.08.1989 on the basis of admissible

evidence, if they so choose.

The Writ Petition is accordingly disposed of. No costs.

ASST.REGISTRAR

23rd June, 2004.

//True Copy//

SECTION OFFICER

ajr.

To:

1 The Deputy Transport Commissioner Nayeemnagar, Hanamkonda Warangal Dist

2 The Regional Transport Officer, Khammam

3 Two C.Cs. to the Special Government Pleader for Taxes, High Court buildings, Hyderabad (O.U.T).

4 Two C.D. copies.